

Case No.

*In re. Investigation of election irregularities affecting
counties within the 9th Congressional District*

Exhibit

7.1.9.2

Description: Burton evidentiary exhibits submitted under Paragraph 8 of the Order of Proceedings (Exhibit 6.1.1).



NORTH CAROLINA
State Board of Elections & Ethics Enforcement

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA STATE BOARD of
ELECTIONS & ETHICS ENFORCEMENT

IN THE MATTER OF:)
)
Investigation of election))
irregularities affecting counties))
within the 9th Congressional)
District)

Evidentiary Submission
of Candidate Vanessa Burton

This submission is made pursuant to Paragraph 7 of the Order of Proceedings issued in this matter by the North Carolina State Board of Elections and Ethics Enforcement (“State Board”) on December 17, 2018. Candidate Vanessa Burton won the election for District Court Judge for District 16B, Seat 2, by 67 votes.

1. A purported basis for including Robeson County in the State Board’s investigation is the high rate of non-return of absentee ballots sent by the Robeson County Board of Elections to those who requested them. One thousand one hundred ninety-seven (1,197) absentee ballots that were requested in Robeson County were not returned.

2. Failure of a voter to return a requested absentee ballot is not an irregularity.

3. The State Board’s portal of relevant documents described in Paragraph 7 of its Order of Proceedings contains no evidence of any irregularities in the District 16B, Seat 2, election.

4. The District Court election was conducted entirely in Robeson County. None of the electorate was in Bladen County, the location of multiple allegations of absentee ballot irregularities.

5. Examination of the voting data establishes that the only reasonable conclusion concerning the non-returned absentee ballots is that, had they been returned, Ms. Burton would have won by a wider margin.

6. Ms. Burton is African American and a Democrat, as reflected on her voter registration. Her opponent, Mr. Jack Moody, Jr., is white and a Republican.

7. Exhibit 1 shows all 39 precincts of Robeson County and details the racial composition of the residents of those precincts who voted in the 2018 general election and the precinct results of the District 16B, Seat 2, election. Ms. Burton did best in precincts that are majority or plurality black. Mr. Moody, Jr., did best in precincts that are majority or plurality white. The two candidates split the Native American (Indian) precincts evenly.

8. Exhibit 2 shows the partisan and racial breakdown of all the voting methods used in Robeson County in the 2018 general election, as well as the Burton-Moody results in those elections. Consistent with the data in Exhibit 1, Ms. Burton did best in arenas with disproportionate numbers of black voters, and Mr. Moody, Jr., did best in arenas with disproportionate numbers of white voters.

9. The bottom of Exhibit 2 sets out the demographics of the 1,197 Robeson voters who were sent an absentee ballot but did not return the ballot. This group had the highest percentage of black voters of any of the voting methods and the lowest percentage of white voters. Given the candidates' performances in other arenas, it is not plausible to conclude that Ms. Burton would have received a lower percentage of these votes than in the other arenas with high percentages of black voters. Had these ballots been returned, the only plausible conclusion is that Ms. Burton would have won by a wider margin.

10. Another purported basis for including Robeson County in the State Board's investigation is that operatives of McCrae Dowless, the person of interest in Bladen County who worked for Republican Mark Harris's campaign, may have been involved in absentee ballot work in Robeson County as well.

11. The high rate of non-return of absentee ballots in Robeson indicates the absence in Robeson County of the illegal follow-through, or absentee ballot harvesting, of which Mr. Dowless has been accused. Had Mr. Dowless been active in Robeson County, the only plausible conclusion is that his efforts would have helped the Republican candidate, Mr. Moody, Jr., and not the Democratic candidate, Ms. Burton.

12. Ms. Burton's campaign did not hire anyone to engage in absentee ballot efforts on her behalf. (Exhibit 3).

13. State Board counsel advised Ms. Burton that there is no allegation or insinuation that she has engaged in any misconduct. (Exhibit 4)

Electronically submitted
/s/ William R. Gilkeson, Jr.

BAILEY & DIXON, L.L.P.
434 Fayetteville St., Ste. 2500
P. O. Box 1351
Raleigh, NC 27602

William R. Gilkeson, Jr.
wgilkeson@bixon.com
North Carolina State Bar No.: 12963
Sabra J. Faires
sfaires@bdixon.com
North Carolina State Bar No.: 9212
Attorneys for Candidate

Exhibit 7.1.9.2

Robeson Precincts - Voter Turnout by Race & the Burton-Moody Vote

EXHIBIT
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Precinct #	Precinct Name	Indian	White	Black	Burton %	Moody %	Total Vote	Precinct #
1	Alfordsville	58.59%	16.08%	23.35%	53.32%	46.68%	422	1
2	Back Swamp	50.54%	11.85%	35.54%	60.42%	39.58%	897	2
3	Britts	6.34%	71.26%	19.43%	29.09%	70.91%	722	3
4	Burnt Swamp	89.49%	5.42%	3.36%	45.99%	54.01%	822	4
5A	Fairmont	11.98%	31.29%	53.48%	49.89%	50.11%	1782	5A
7	Gaddys	35.46%	25.76%	35.73%	53.43%	46.57%	350	7
8	East Howellsville	7.57%	73.82%	15.76%	29.72%	70.28%	811	8
9	West Howellsville	12.91%	47.35%	35.60%	51.52%	48.48%	592	9
10	Lumber Bridge	16.74%	40.75%	36.78%	52.23%	47.77%	448	10
11	Lumberton # 1	9.77%	73.54%	11.89%	30.58%	69.42%	2335	11
11A	Lumberton # 11A	45.21%	33.28%	17.58%	42.70%	57.30%	623	11A
12	Lumberton # 2	8.74%	37.62%	50.24%	64.15%	35.85%	809	12
13	Lumberton # 3	7.84%	50.41%	36.96%	51.87%	48.13%	854	13
14	Lumberton # 4	6.50%	51.12%	38.34%	52.61%	47.39%	441	14
15	Lumberton # 5	6.70%	16.20%	73.22%	79.87%	20.13%	462	15
16	Lumberton # 6	5.06%	1.17%	91.25%	93.03%	6.97%	502	16
17	Lumberton # 7	50.00%	12.65%	31.93%	61.94%	38.06%	155	17
18A	Lumberton # 8	8.23%	66.23%	19.48%	41.20%	58.80%	903	18A
19	Maxton	25.61%	13.49%	58.40%	77.65%	22.35%	1217	19
20	Orrum	6.68%	57.22%	34.30%	43.14%	56.86%	547	20
21	Parkton	3.46%	55.29%	34.45%	46.92%	53.08%	942	21
22	North Pembroke	69.61%	6.70%	16.26%	59.62%	40.38%	1154	22
23	South Pembroke	82.89%	9.02%	5.15%	49.78%	50.22%	1378	23
24	Philadelphus	70.71%	13.27%	11.90%	50.86%	49.14%	407	24
25	Raft Swamp	57.28%	19.87%	19.25%	50.74%	49.26%	609	25
26A	Red Springs	10.97%	31.06%	52.35%	72.87%	27.13%	1,482	26A
28	Rennert	60.27%	18.53%	16.74%	41.43%	58.57%	420	28
29	Rowland	16.92%	25.92%	54.98%	67.36%	32.64%	723	29
30	Saddletree	71.01%	17.17%	6.94%	45.51%	54.49%	1013	30
32A	St Paul's	6.48%	54.34%	33.08%	46.75%	53.25%	2049	32A
33	Shannon	60.18%	7.52%	25.22%	56.89%	43.11%	225	33
34	Oxendine	76.11%	9.11%	12.96%	45.05%	54.95%	455	34
35	Prospect	93.98%	3.91%	0.95%	42.00%	58.00%	888	35
36	Smyrna	17.08%	37.57%	42.13%	54.34%	45.66%	519	36
37	Sterlings	3.59%	88.56%	5.56%	14.85%	85.15%	303	37
38	Thompson	46.12%	38.35%	11.65%	40.10%	59.90%	202	38
39	Union	60.59%	10.90%	26.95%	63.50%	36.50%	611	39
40	Whitehouse	3.35%	50.93%	41.64%	50.19%	49.81%	267	40
41	Wisharts	16.11%	66.69%	14.45%	28.32%	71.68%	1356	41
		31.23%	35.95%	28.90%	50.11%	49.89%	30697	

Indian	16 Indian precincts ---	Burton won 8	Moody won 8
White	14 white precincts ---	Burton won 5	Moody won 9
Black	9 black precincts ---	Burton won 8	Moody won 1

Burton Win	Burton carried 21 precincts - 8 Indian, 5 white, 8 black
Moody Win	Moody carried 18 precincts - 8 Indian, 9 white, 1 black

Exhibit 7.1.9.2

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Robeson County Race and Party Distributions - 2018 General Election

All Registered Voters

Democrats	Republicans	Unaffiliateds	Indian	White	Black	Total
62.75%	12.15%	24.49%	35.79%	29.61%	28.06%	77,751

All People Who Voted in 2018 General Election

Democrats	Republicans	Unaffiliateds	Indian	White	Black	Total
66.63%	12.88%	20.31%	31.23%	35.95%	28.90%	31,687

Total Vote - All Methods

Burton	Moody	Total
15,382	15,312	30,694
50.11%	49.89%	

Election Day In-Person Voters

Democrats	Republicans	Unaffiliateds	Indian	White	Black	Total
65.47%	13.59%	20.74%	33.56%	38.39%	24.03%	16,915

Election Day In-Person

Burton	Moody	Total
7,566	8,789	16,355
46.26%	53.74%	

One-Stop (Early In-Person Voting) Ballots

Democrats	Republicans	Unaffiliateds	Indian	White	Black	Total
68.57%	11.76%	19.51%	28.64%	33.24%	34.73%	13,609

One-Stop (Early In-Person)

Burton	Moody	Total
7,113	6,097	13,210
53.85%	46.15%	

Provisional Ballots

Democrats	Republicans	Unaffiliateds	Indian	White	Black	Total
64.48%	16.49%	19.03%	30.66%	17.12%	39.32%	475

Provisionals

Burton	Moody	Total
310	149	459
67.54%	32.46%	

Returned & Accepted Mail Absentee Ballots

Democrats	Republicans	Unaffiliateds	Indian	White	Black	Total
58.41%	15.07%	26.23%	25.65%	42.61%	26.09%	690

Returned Absentees

Burton	Moody	Total
393	280	673
58.40%	41.60%	

Civilian Absentee Ballots Sent But Not Retuned

Democrats	Republicans	Unaffiliateds	Indian	White	Black	Total
68.67%	6.52%	24.73%	30.83%	19.80%	42.11%	1,197

Unreturned Absentees

Burton	Moody	Total
unknown	unknown	1,197
unknown	unknown	

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA STATE BOARD of
ELECTIONS & ETHICS ENFORCEMENT

IN THE MATTER OF:)
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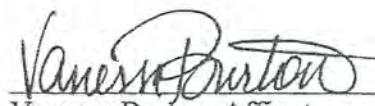
Affidavit of
Candidate Vanessa Burton

I, Vanessa Burton, being first duly sworn, depose and say:

1. I am over the age of 18 and legally competent to give this affidavit.
2. I have personal knowledge of the facts set forth in this affidavit.
3. I am a resident of Robeson County.
4. I was the Democratic candidate for District Court Judge in District 16B, Seat 2, in the 2018 general election.
5. I received 67 more votes than my opponent Mr. Jack Moody, Jr.
6. I did not pay anyone to assist with absentee ballots for my campaign.
7. My campaign finance report shows my campaign expenditures.
8. I am aware only through news articles that Mr. McCrae Dowless is accused of harvesting absentee ballots in Bladen and Robeson Counties and that he was hired by Republican Mark Harris' congressional campaign.
9. I have never met with, talked with, or hired Mr. McCrae Dowless to assist with my campaign.
10. I had never heard of McCrae Dowless until the news reported that he was a person of interest in the State Board's investigation into election irregularities.

11. I learned of the existence of the Red Dome Group as a result of the State Board of Elections publicized election fraud investigation. I did not hire the Red Dome Group to assist with my campaign.
12. I am not aware of any irregularities in my judicial race.

This the 21st day of December 2018.



Vanessa Burton
Vanessa Burton, Affiant

Sworn to and subscribed before me this the 21st day of December, 2018.

(SEAL)



LAC
Notary Public

My Commission expires:
02/01/2022



NORTH CAROLINA

State Board of Elections & Ethics Enforcement

(919) 814-0755
Fax: (919) 715-0135Tables
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December 14, 2018

VIA ELECTRONIC MAIL

William R. Gilkeson
wgilkeson@bdixon.com

Re: Request for additional explanation regarding action staying the issuance of certificate of elections in the contest for Seat 2 of on the N.C. District Court in District 16B.

Attorney Gilkeson:

Thank you for your letter to the State Board of Elections and Ethics Enforcement ("State Board") on behalf of your client, Vanessa Burton. During our meetings in my office, I have stressed that there is no allegation or insinuation that your client has engaged in any misconduct. Instead it was necessary for the State Board to stay the final certification of certain local contests because the apparent margin of victory in each race represented fewer votes than those presently under scrutiny in an unrelated investigation across Congressional District 9. This was the case with your client's contest in Robeson. In addition to her seat, the State Board stayed the local certification for Bladen County Commissioner District 3, Bladen Soil and Water Conservation District Supervisor, and State certification in Congressional District 9.

The State Board will hold an evidentiary hearing on its investigation, and all affected candidates will be notified of the hearing and given an opportunity to be heard. We understand the disruption and disappointment caused by a delay in certification. It remains the position of the State Board, however, that the stay was necessary in the performance of its duty under G.S. 163A-1180 and that the stay must remain in place for the time being. We will ensure you receive notice on behalf of your client in the expected proceedings.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Lawson".

Josh Lawson
General Counsel